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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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ANTHONY CORTESE, et al.,   :
                                                                    :
                                    Plaintiffs,   :
                                                                    :   20-cv-1632 (LJL)
        -v-   :
                                                                    :   ORDER
SKANSKA KOCH, INC., KIEWIT   :
INFRASTRUCTURE CO. & SKANSKA KOCH –   :
KIEWIT JV,   :
                                                                    :
                                    Defendants.   :
                                                                    :
--X

LEWIS J. LIMAN, United States District Judge:

        The Court invites letter briefs of no longer than 4 single-spaced pages, to be filed by
Thursday, February 4, 2021 at 5:00 p.m. on the following three questions raised by the pending
motion to dismiss:

        1. Under general principles of contract law, where a union has been authorized to engage
        in collective bargaining on behalf of an employee, would a contract for wages negotiated
        and agreed between an employer and an employee without collective bargaining or the
        participation of the authorized union representative (including a contract signed by the
        employee herself rather than the representative) be enforceable by the employer against
        the employee? Would it be enforceable by the employee against the employer?

        2. If the answer to Question 1 is no, does it make a difference that the contract here is
        one to which the employee is a third-party beneficiary rather than a party?

        3. Had the terms of the Construction Agreement upon which Plaintiffs rely been
        included in an agreement signed directly by the Plaintiffs would that agreement be
        enforceable by the employer? By the employee?

        In answering these questions, the parties should feel free to reference any applicable
general principles of law as well as any directly applicable precedent.

        In addition, the parties should address the following question: had the terms of the
Construction Agreement upon which Plaintiffs rely been included in a collective bargaining
agreement, would Plaintiffs be able to rely on those terms in bringing a FLSA overtime claim
without first exhausting remedies under the Taft-Hartley Act.

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SO ORDERED.

Dated: February 1, 2021
      New York, New York

_____
           LEWIS J. LIMAN
      United States District Judge